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10/700,945	10/31/2003	Alain Lussier	789-64	5955

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EXAMINER

JULES, FRANTZ F

ART UNIT PAPER NUMBER

3617

DATE MAILED: 01/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/700,945

Applicant(s)

LUSSIER, ALAIN

Examiner

Frantz F. Jules

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final:
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/26/2004
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the recitation of a cam plate rotatably connected to the drive sprocket on a first thereof in claim 1 and a dynamic member supporting a sprocket in claim 10 are must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

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2. The disclosure is objected to because of the following informalities:

In claim 1, lines 6-7, the phrase "a cam plate rotatably connected to the drive sprocket on a first thereof" is not adequately disclosed in the specification or in the drawings since the sprocket must turn completely while the camp plate is fixed at two positions. Appropriate correction is required.

***Claim Objections***

3. Claims 1-9 are objected to because of the following informalities:

In claim 1, lines 6-7, the phrase "a cam plate rotatably connected to the drive sprocket on a first thereof" is not adequately disclosed in the specification or in the drawings since the sprocket must turn completely while the camp plate is fixed at two positions. Similar problem exists in claim 8.

In claim 8, line 8, the phrase "said dynamic member" should be replaced by --said member-- to improve the clarity of the claim language.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 10-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention. The recitation of a dynamic member supporting a sprocket in claim 10 is not adequately disclosed in the specification to enable duplication of the invention since the sprocket is mounted on a shaft.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1 line 3, the phrase "an idler wheel" is confusing as it is unclear how it relates to previously recited a rear idler wheel.

***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 10-11 are rejected under 35 U.S.C. 102(b) as being anticipated by Scully et al (US 3,539,229).

Scully et al disclose a track tensioning system for a tracked vehicle comprising a dynamic member (42) supporting a sprocket (28) of a tracked wheel of the tracked vehicle, wherein said dynamic member is forced against an endless track belt

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of the vehicle so as to maintain a constant tension thereof.

The dynamic member is selected in the group comprising a spring, a hydraulic cylinder and a pneumatic cylinder.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1-6 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meisel Jr (US 4,227,748) in view of Scully et al (US 3,539,229).

Meisel Jr discloses a track tension comprising a cam plate (20), rotatably connected to a drive wheel on a first end thereof, and to a rail (18) supporting mid rollers and idler wheels (42) of the tracked vehicle at a second end thereof and a hydraulic cylinder member (52), mounted at a first end thereof to said rail and at a second end thereof to said cam plate, wherein said member has a variable length.

Meisel Jr discloses all of the features as disclosed above but does not disclose a track tension system wherein the tension mechanism is connected to a drive sprocket. The general concept of providing a track tension system comprising a drive sprocket in connection to a tension mechanism is well known in the art as illustrated by Scully et al which disclose the teaching of a track tension system comprising a drive sprocket (28) in connection to a tension mechanism. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Meisel Jr to include the use of a track

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tension system comprising a drive sprocket in connection to a tension mechanism. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Meisel Jr to include the use of a drive sprocket in connection to a tension mechanism in his advantageous track tension apparatus as taught by Scully et al in order to increase the pressure of the track tension thereby prevent loosening of the track.

12. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Meisel Jr (US 4,227,748) and Scully et al (US 3,539,229), as applied to claim 1 above, and further in view of Smith et al (US 2,350,076).

Meisel Jr and Scully et al teach all the limitations of claim 7 except for a track tension system comprising traction lugs on the outside surface of the belt. The general concept of providing traction lugs on the outside surface of a belt is well known in the art as illustrated by Smith et al which disclose a the teaching of traction lugs on the outside of a belt. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Meisel Jr and Scully et al to include the use of traction on the outside of a belt as taught by Smith et al in order to prevent slippage of the track when operated in wet weather.

### ***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

Braathen and Purcell et al are cited to show related track tension system comprising a hydraulic cylinder.

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Henderson is cited to show related track tension system comprising a hydraulic cylinder coupled to a sprocket.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz F. Jules whose telephone number is (703) 308-8780. The examiner can normally be reached on Monday-Thursday and every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph S. Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz F. Jules  
Primary Examiner  
Art Unit 3617

FFJ

January 4, 2005

**FRANTZ F. JULES**  
**PRIMARY EXAMINER**

